IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 12989 of 2007(U)

OS.956/2005 of II ADDL.M.C., ERNAKULAM
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PETITIONER:

REGHUVARAN,S/O.KOCHUKRISHNAN,
PALACHUVATTIL HOUSE,EROOR DESOM,NADAMA VILLAGE,
KANAYANOOR TALUK.

BY ADV. SRI.M.K.SUCHEENDRAN

RESPONDENTS:
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1. KUNJAPPAN @ KANJU NAIR,S/O.KUNJIKAVU,
MOOLEDATH HOUSE,EROOR DESOM,NADAMA VILLAGE,
KANAYANOOR TALUK.

2. SUNIL C/O.KUNJAPPAN,MOOLEDATH HOUSE,
EROOR DESOM,NADAMA VILLAGE,KANAYANOOR TALUK.

3. VENU,S/O.GOPALA MENON,MOOLEDATH HOUSE,
EROOR DESOM,NADAMA VILLAGE,KANAYANOOR TALUK.

4. ASHOKAN,MOOLEDATH HOUSE,EROOR DESOM,
NADAMA VILLAGE,KANAYANUUR TALUK.

5. CIRCLE INSPECTOR OF POLICE,
HILL PALACE POLICE STATION,TRIPUNITHURA.

BY ADV. SRI. M.S. BREEZ, PUBLIC PROSECUTOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE EXTRACT OF DOCUMENT NO. 3784/2004 DT. 05.10.2004 OF THE SRO TRIPUNITURA.

EXT.P2: TRUE COPY OF THE COMMISSION REPORT DATED 15.07.2005.

EXT.P3: TRUE COPY OF THE COMPLAINT IN CRL. M.P. NO. 3836/2005 DATED 25.07.2005.

EXT.P3.A: TRUE COPY OF FIR IN CR. NO. 367/2005 DT. 01.08.2005 OF HILL PALACE POLICE STATION

EXT.P4: TRUE COPY OF I.A. NO. 6892/2005 DATED 09.08.2005.

EXT.P5: TRUE COPY OF THE COMMISSION REPORTE DATED 27.01.2005.

EXT.P6: TRUE COPY OF WRITTEN STATEMENT OF THE RESPONDENTS DATED 05.09.2005.

EXT.P7: TRUE COPY OF REFER REPORT IN CR. NO. 367/2005 OF HILL PALACE POLICE STATION.

/True Copy/

P.A to Judge.

R.BASANT, J

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W.P.C.No. 12989 Of 2007

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Dated this the 26th day of June, 2007

JUDGMENT

The short grievance of the petitioner is that Ext.P7-final report has been accepted by the learned Magistrate without any notice to the petitioner/defacto complainant. Considering the nature of the grievances, the report was called for from the learned Magistrate. Two reports have been submitted by the learned Magistrate dated 18.5.07 and 31.5.07. It is very clear from these reports now that no notice has been issued to the petitioner herein before the final report was considered.

2. Following the dictum in **Gangadhar Janardhan Mhatre vs. State of Maharashtra**. (2004(3)KLT S.N.77 Case No.107) the learned Magistrate is obviously incorrect. The procedure adopted have got to be interfered with. In the result this petition is allowed. The learned Magistrate shall consider the final report afresh after hearing the learned counsel for the petitioner. The petitioner can appear before the learned Additional Chief Judicial Magistrate on 23.7.07. and raise his objections, if any, against the final report. It is

not necessary for the petitioner to wait and the directions given hereunder can now be reckoned as notice to the petitioner to appear before the learned Additional Chief Judicial Magistrate on that day.

3. This petition is accordingly allowed to the above extent.

(R.BASANT, JUDGE)

sj